



[Billing Code 6355-01-P]

## **CONSUMER PRODUCT SAFETY COMMISSION**

**[Docket No. CPSC-2017-0010]**

### **16 CFR Parts 1112 and 1250**

#### **Safety Standard Mandating ASTM F963 for Toys**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Direct final rule.

**SUMMARY:** Section 106 of the Consumer Product Safety Improvement Act (CPSIA) made ASTM F963-07<sup>1</sup>, *Standard Consumer Safety Specification for Toy Safety*, a mandatory consumer product safety standard. That section also provides procedures for revisions to the standard. In accordance with these procedures, the Commission (CPSC or Commission) recently allowed the update to ASTM F963, ASTM F963-16, *Standard Consumer Safety Specification for Toy Safety* (ASTM F963-16), to become the mandatory toy standard. This direct final rule incorporates by reference ASTM F963-16 and updates the existing notice of requirements (NOR) that provide the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing for ASTM F963 pursuant to section 14(a)(3)(B)(vi) of the Consumer Product Safety Act (CPSA).

**DATES:** The rule is effective on April 30, 2017, unless we receive significant adverse comment by **[insert date 30 days after publication in the FEDERAL REGISTER]**. If we receive timely significant adverse comments, we will publish notification in the *Federal Register*, withdrawing this direct final rule before its effective date. The

incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of April 30, 2017.

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC-2017-0010, by any of the following methods:

*Submit electronic comments in the following way:*

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail), except through [www.regulations.gov](http://www.regulations.gov).

*Submit written submissions in the following way:*

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

*Instructions:* All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

**FOR FURTHER INFORMATION CONTACT:** For information related to the toy standard, contact: Carolyn T. Manley, Lead Compliance Officer, Office of Compliance

and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814-4408; telephone: 301-504-7607; email: cmanley@cpsc.gov.

## **SUPPLEMENTARY INFORMATION:**

### **A. Background**

#### **Section 106 of the Consumer Product Safety Improvement Act of 2008.**

Section 106(a) of CPSIA mandated that beginning on February 10, 2009, ASTM F 963–07<sup>1</sup>, *Standard Consumer Safety Specifications for Toy Safety*<sup>1</sup>, shall be considered a mandatory consumer product safety standard issued by the CPSC. Pub. L. No. 110–314. Since ASTM F963 was first mandated in 2009, there have been two revisions, ASTM F963–08 and ASTM F963-11. Currently, the provisions of ASTM F 963–11 and section 4.27 of ASTM F 963–07 & 1 (toy chests) are considered consumer product safety standards issued by the Commission under section 9 of the CPSA. Under section 106(g) of the CPSIA, if ASTM proposes revisions to ASTM F963, ASTM must notify the Commission. The revised standard shall be considered to be a consumer product safety standard issued by the CPSC under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which ASTM notifies the Commission of the revision, unless, within 90 days after receiving that notice, the Commission notifies ASTM that it has determined that the proposed revision does not improve the safety of toys.

**Notification of Revisions.** On November 1, 2016, ASTM notified the CPSC of ASTM’s approval and publication of revisions to ASTM F963-16 in a revised standard

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<sup>1</sup> Except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute.

approved on August 1, 2016, ASTM F963-16, *Standard Consumer Safety Specification for Toy Safety*. On January 25, 2017, the Commission voted to allow the provisions of ASTM F963-16 to become the CPSC mandatory toy standard. As discussed below, the Commission has reviewed the differences between ASTM F963-11 and section 4.27 of ASTM F 963-07  $\epsilon$ 1 (for toy chests the current mandatory toys standard) and ASTM F963-16 (the revised toys standard).

## **B. Revisions to the ASTM Standard**

In general, ASTM F963-16 contains clarifications, corrections, and new requirements that will increase safety, reduce testing burden, or enhance clarity and utility of the standard. A number of changes align ASTM F963 more closely with the European Standard (EN) 71, *Safety of Toys Part 1: Mechanical and Physical Properties*, and International Organization for Standardization (ISO) 8124, *Safety of Toys Part 1: Safety Aspects Related to Mechanical and Physical Properties*, performance requirements. In addition, new provisions were added to the standard to address new types of toys or hazards. The revisions appear in every major section of the standard, beginning with Section 1.7, which has been updated to return toy chest requirements to ASTM F963.<sup>2</sup> Finally, many small editorial changes throughout the revised standard keep the standard's format and numbering consistent. These changes are strictly editorial and do not have an impact on toy safety.

Changes were made in the following sections:

- **Scope** - Updates section 1.7, which lists all sections of the standard, to reflect the addition of toy chests.

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<sup>2</sup> Toy chest requirements were last included in the ASTM F963-07 $\epsilon$ 1.

- **Referenced documents** - Removes one reference, updates one, and adds 22 new references.
- **Terminology** - Adds seventeen new definitions, changes seven definitions, and removes six definitions, generally because they are redundant with new or changed definitions, and thus, are no longer needed.
- **Labeling Requirements** - Updates labeling requirements for battery-operated toys and magnetic toys.
- **Instructional Literature** - Revises language to clarify instructional literature requirements for battery-operated toys and battery-powered ride-on toys.
- **Batteries** - Adds new testing requirements to address toys that contain rechargeable cells and batteries. Adds a new warning label for certain button and coin cell batteries of nominal 1.5 volts or greater to address hazards that have been identified with these cells. Adds four new test methods for toys that contain rechargeable cells and batteries: battery overcharging test, repetitive overcharging test, single fault charging test and short circuit protection test.
- **Cleanliness (biological)** - Changes the test methods for both microbial cleanliness of cosmetics, liquids, pastes, putties, gels, powders, and feathers and the cleanliness of stuffing materials.
- **Cleanliness (stuffing)** - Changes the test methods for both microbial cleanliness of cosmetics, liquids, pastes, putties, gels, powders, and feathers and the cleanliness of stuffing materials.

- **Expanding Materials** - Adds new definitions, performance requirements, test methodology and a test template to address the emerging hazard of gastrointestinal blockage related to ingestion of expanding materials.
- **Heavy Elements** - Allows X-ray Fluorescence Spectrometry Using Multiple Monochromatic Excitation Beams, commonly known as HDXRF, for Total Element Content Screening.
- **Impaction Hazard** - Clarifies impaction hazard test fixture requirements for rigid squeeze toys and tethered rigid components.
- **Magnets** - Includes a new cyclic soaking test for only wooden toys, toys intended to be used in water, mouth pieces of mouth-actuated toys with magnets or magnetic components. New definitions for “experimental/science sets.”
- **Mouth-Actuated Toys** - Adds design requirements to prevent the projectile or any liberated toy part from entering the mouth.
- **Projectile Toys** - Includes changes to descriptions, definitions, allowed shapes, types of projectile toys, exemptions, assessments and kinetic energy density levels allowed for certain types of projectile toys.
- **Ride-on Toys (stability)** - Requires dimensional spacing between wheels on the same axis of ride-on toys.
- **Ride-on Toys (overloading)** - Requires a more stringent overload weight test for ride-on and seated toys.
- **Ride-on Toys (restraints)** - Exempts straps used for waist restraints on ride-on toys from the free length and loop requirements.

- **Sound-Producing Toys** - Redefines “mouth-actuated toys” to include a broader range of toys, such as noisemakers and projectile toys; increases peak limits (due to miscalculated values); adds new noise limit; lowers test speed for push-pull toys; and revises the format, sequence and requirements sections for clarification.
- **Toy Chests** - Reincorporates toy chest section 4.27 and associated provisions from ASTM F963-07ε1 into the current 2016 toy standard, and clarifies a multi-positional lid requirement when testing for maximum lid drop requirements.
- **Annex** - Adds Annex A12 to document the rationale for the changes in the 2016 version of ASTM F963.

### **C. Incorporation by Reference**

Although ASTM F963-16 is mandatory by operation of statute, nothing currently in the Code of Federal Regulations (CFR) indicates that ASTM F963 is a CPSC mandatory standard. This direct final rule adds a new part 1250, Safety Standard Mandating ASTM F963 for Toys, which incorporates by reference ASTM F963-16 into the CFR, along with the rest of CPSC’s mandatory rules so that the public may more readily ascertain the mandatory rules that apply.

The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble of the final rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can

obtain the materials. In addition, the preamble to the final rule must summarize the material. 16 CFR 51.5(b).

In accordance with the OFR's requirements, section B of this preamble summarizes the ASTM F963-16 standard that the Commission incorporates by reference into 16 CFR part 1250. The standard is reasonably available to interested parties, and interested parties may purchase a copy of the standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 USA; phone: 610-832-9585; <http://www.astm.org/>. A copy of the standard can also be inspected at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

#### **D. Certification**

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, be certified as complying with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program or, for children's products, on tests on a sufficient number of samples by a third party conformity assessment body accredited by the Commission to test according to the applicable requirements. As noted in the preceding discussion, standards issued under section



106(f)(1)(B) are “consumer product safety standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because toys are children’s products, samples of these products must be tested by a third party conformity assessment body whose accreditation has been accepted by the Commission. These products also must comply with all other applicable CPSC requirements, such as the lead content requirements of section 101 of the CPSIA, the phthalates prohibitions of section 106 of the CPSIA, and the tracking label requirement in section 14(a)(5) of the CPSA.

#### **E. Notice of Requirements**

In accordance with section 14(a)(3)(B)(vi) of the CPSIA, the Commission has previously published two NORs for accreditation of third party conformity assessment bodies for testing toys (76 FR 46598 (Aug. 3, 2011), 78 FR 15836 (March 12, 2013)). The last NOR provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing toys to ASTM F963-11. The NOR for ASTM F963-11 is listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies.” 16 CFR part 1112.

The previous NOR for the toy safety standard included 35 sections from ASTM F963-11 and one section from ASTM F963-07 $\epsilon$ 1 (Section 4.27, Toy Chests) that required third party testing. The revisions to ASTM F963-11 that were adopted into ASTM F963-16 include new requirements, new test methods, and several clarifications to safety provisions and test methods.

The Commission will require third party testing for 37 sections of ASTM F963-16, including the same 35 sections that required third party testing for ASTM F963-11,

plus two new sections. The new sections are Section 4.40 for Expanding Materials and Section 4.41 for Toy Chests. Section 4.40 for Expanding Materials is a new safety requirement, which addresses a hazard that was not addressed in earlier versions of ASTM F963. Section 4.41 for toy chests reincorporates the toy chest requirements from ASTM F963-07 $\epsilon$ 1 back into ASTM F963. The incorporation of the toy chest requirements back into ASTM F963-16 simplifies the NOR because it now references only one version of the standard, ASTM F963-16. This rule revises section 1112.15(b)(32)(ii) of the NOR for ASTM F963 in part 1112 to add two new subsections, (JJ) for section 4.40 for expanding materials and (KK) for section 4.41 for toy chests to the NOR. Additionally, references to section 4.27 of ASTM F963-07 $\epsilon$ 1 (toy chests) have been deleted from section 1112.15(b)(32)(i) to reflect that the toy chest provisions of ASTM F963-07 $\epsilon$ 1 have been reincorporated into ASTM F963-16. Finally, the reference to ASTM F963-07 $\epsilon$ 1 regarding toys chests in section 1112.15(c)(1)(ii) has been deleted to reflect that provision as reincorporated into ASTM F963-16, and the citation regarding the incorporation by reference of ASTM F963 has been updated to list ASTM F963-16 in section 1112.15(c)(1) (iii).

Certain provisions of ASTM F963-16 do not require third party testing as was the case in the previous NORs issued for ASTM F963. The ASTM F963-16 provisions that do not require third party testing are in the following areas:

- Any provision of ASTM F963 that section 106 of the CPSIA excepted from being a mandatory consumer product safety standards issued by the Commission. The CPSIA also excepted from ASTM F963 any provision that restates or incorporates an existing mandatory standard or ban promulgated by the

Commission or by statute. In addition, the CPSIA excepted provisions from ASTM F963 that restates or incorporates a regulation promulgated by the Food and Drug Administration or any statute administered by the Food and Drug Administration. Section 4, Public Law No. 112-28 – Aug 12, 2011.

- Those sections of ASTM F963–16 that pertain to the manufacturing process and, thus, cannot be evaluated meaningfully by a test of the finished product (*e.g.*, the purified water provision at section 4.3.6.1).
- Those provisions of ASTM F963-16 with requirements for labeling, instructional literature, or producer’s markings.
- The provision in ASTM F963–16 that sets a limit for a DI (2-ethylhexyl) phthalate in pacifiers, rattles, and teethingers. This section is excepted from third party testing because section 108 of the CPSIA sets limits for this and other phthalates that are more stringent than this requirement in ASTM F963-16.

Finally, as noted, some of the revised sections of ASTM F963 include changes to test methods. However, the test method revisions do not involve a change in scientific discipline necessary to conduct the test or a significant increase in complexity. Testing laboratories that are accredited and CPSC-accepted to test to specific sections in ASTM F963-11 are considered by CPSC to be competent to conduct testing to those same sections in ASTM F963-16. Therefore, CPSC will accept testing to support product certifications for sections in ASTM F963-16 if the test laboratory is already CPSC-accepted to those same sections in ASTM F963-11. Test laboratories that conduct testing to support product certifications to ASTM F963-16 must show in their test reports

“ASTM F963-16” and the specific section numbers in the standard to which the product was evaluated.

There are two new sections in ASTM F963-16. Because section 4.41 for Toy Chests merely reincorporates the toy chests provision into ASTM F963-16, the CPSC will accept testing if the laboratory is already CPSC-accepted for ASTM F963-07ε1, Section 4.27 for Toy Chests. Additionally, although section 4.40 for Expanding Materials is a new requirement not previously found in ASTM F963, the CPSC will accept product testing for certification, if the test laboratory is already CPSC-accepted for ASTM F963-11, sections 4.6 for Small Parts and 4.24 for Squeeze Toys. This is because the new provision in section 4.40 in ASTM F963-16 involves mechanical testing, including dimensional measurements and the use of a test gauge. The testing methods have strong similarities with other mechanical testing in section 4.6 Small Objects and Section 4.24-Squeeze Toys of ASTM F963-11. Therefore, CPSC considers test laboratories that are currently CPSC-accepted for testing to section 4.6 Small Objects and Section 4.24-Squeeze Toys of ASTM F963-11 to be competent to conduct testing to this new requirement.

CPSC will accept ASTM F963-16 testing results by test laboratories that are CPSC-accepted to ASTM F963-11 sections for a period not to exceed 2 years. This should allow adequate time for test laboratories to work with their accreditation bodies, make official updates to their accreditation scope to include ASTM F963-16 sections, and submit applications to the CPSC.

The CPSC will open the application process for all sections of ASTM F963-16 when this document is published in the *Federal Register*. Test laboratories that seek

CPSC acceptance for one or more ASTM F963-16 sections will be required to update their accreditation scope. To be CPSC-accepted for sections in ASTM F963-16, a test laboratory's scope of accreditation must include the reference to "ASTM F963-16" and a specific reference to one or more of the 37 sections listed in the NOR. Test laboratories that are currently CPSC-accepted to ASTM F963-11 are instructed to update their accreditation scope to include ASTM F963-16 sections as soon as possible, and submit their application for CPSC acceptance. Test laboratories that were not previously CPSC-accepted to sections of ASTM F963-11 and that wish to request CPSC acceptance to ASTM F963-16 should work with their accreditation bodies to include "ASTM F963-16" sections in their scope of accreditation.

On February 4, 2019, the CPSC will no longer accept laboratory applications that reference sections of "ASTM F963-11." At that time, the scope document submitted with applications to CPSC must reference "ASTM F963-16" and the specific section numbers listed in the NOR in section 16 CFR 1112.15(b)(32). This approach will avoid disruption to third party testing to the toy safety standard and allow for a practicable transition from ASTM F963-11 to ASTM F963-16 for testing laboratories, the toy industry, and other interested parties.

#### **F. Direct Final Rule Process**

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are "impracticable, unnecessary, or contrary to the public interest." The Commission concludes that notice and comment is unnecessary

because ASTM F963 automatically becomes a consumer product safety standard by operation of law. The Commission has voted to allow ASTM F963-16 to become the mandatory CPSC standard. Even without the incorporation by reference, ASTM F963-16 will take effect as the new mandatory CPSC standard pursuant to section 106(g) of the CPSIA. This rule incorporates by reference ASTM F963-16 into the CFR to inform the public what version of the ASTM F963 is mandatory. Because this document merely incorporates by reference a standard that takes effect by operation of statute, public comment could not affect the changes to the standard or the effect of the revised standard as a consumer product safety standard under section 106(g) of the CPSIA. The rule also updates the corresponding provisions of the NOR for ASTM F963 in part 1112 to reflect the revision to the standard. The amendment to part 1112 does not establish substantive requirements, but updates the criteria and process for CPSC's acceptance of accreditation of third party conformity assessment bodies for testing toys under the revised ASTM F963 standard. Therefore, the Commission concludes that public comment is not necessary.

The Commission believes that issuing a direct final rule in these circumstances is appropriate. In Recommendation 95-4, the Administrative Conference of the United States (ACUS) endorsed direct final rulemaking as an appropriate procedure to expedite promulgation of rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (August 18, 1995). ACUS also recommended using direct final rulemaking when an agency uses the "unnecessary" prong of the good cause exemption to notice and comment rulemaking. Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule

because we do not believe comment is necessary and do not expect any significant adverse comments to the direct final rule.

Unless we receive a significant adverse comment within 30 days, the rule will become effective on April 30, 2017. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, including an assertion challenging the rule's underlying premise or approach, or a claim that the rule would be ineffective or unacceptable without change.

Should the Commission receive significant adverse comment, the Commission would withdraw this direct final rule. Depending on the comments and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

#### **G. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) generally requires that agencies review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603 and 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. 5 U.S.C. 603 and 604. As explained above, the Commission has determined that notice and comment is not necessary for this direct final rule. Thus, the RFA does not apply. We also note the limited nature of this document. The incorporation by reference of ASTM F963-16 and the update to the notice of requirements in part 1112 will not result in any substantive changes to the standard. Rather, with this action, the

CFR will reflect the mandatory CPSC standard that takes effect under the CPSIA and will update the corresponding NOR provisions in 16 CFR part 1112.

#### **H. Paperwork Reduction Act**

The toy standard contains information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). OMB has approved the collection of information for ASTM F963-11 under OMB Control No. 3041-0159. ASTM F963-16 updates the labeling requirements for battery-operated toys and magnetic toys, as well as revises the language to clarify instructional literature requirements for battery-operated toys and battery-powered ride-on toys. CPSC will update the burden hours in the existing collection of information to reflect the requirements in the 2016 version of the ASTM F963 standard, including those for labeling and instructional literature.

#### **I. Environmental Considerations**

The Commission’s regulations provide a categorical exclusion for the Commission’s rules from any requirement to prepare an environmental assessment or an environmental impact statement because they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

#### **J. Preemption**

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that where a “consumer product safety standard under [the CPSA])” is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement



dealing with the same risk of injury, unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances.

Section 106(f) of the CPSIA states that rules issued under that section “shall be considered consumer product safety standards issued by the Commission under section of the Consumer Product Safety Act” thus, implying that the preemptive effect of section 26(a) of the CPSA would apply. Therefore, a rule issued under section 106 of the CPSIA will invoke the preemptive effect of section 26(a) of the CPSA when it becomes effective.

#### **K. Effective Date**

Under the procedure set forth in section 106(g) of the CPSIA, when ASTM revises ASTM F963, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product. In accordance with this provision, this rule establishes an effective date that is 180 days after we receive notification from ASTM of revisions to the standard. As discussed in section F of this preamble, this is a direct final rule. Unless we receive a significant adverse comment within 30 days, the rule will become effective on April 30, 2017. Additionally, the effective date for the NOR is April 30, 2017, the same date that the provisions of ASTM F963-16 become effective.

## **List of Subjects**

### *16 CFR Part 1112*

Administrative practice and procedure, Audit, Consumer protection, Incorporation by reference, Reporting and recordkeeping requirements, Third party conformity assessment body.

### *16 CFR Part 1250*

Consumer protection, Imports, Incorporation by reference, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II, as follows:

## **PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES**

1. The authority citation for part 1112 is revised to read as follows:

**Authority:** 15 U.S.C. 2063; Pub. L. 110–314, section 3, 122 Stat. 3016, 3017 (2008).

2. Amend § 1112.15 by:

- a. Revising the introductory text to paragraph (b)(32);
- b. Removing and reserving paragraph (b)(32)(i);
- c. Revising the introductory text to paragraph (b)(32)(ii);
- d. Adding paragraphs (b)(32)(ii)(JJ) and (KK);
- e. Revising paragraph (c)(1)(ii) and removing paragraph (c)(1)(iii).

The revisions and additions read as follows:

**§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule or test method?**

\* \* \* \* \*

(b) \* \* \*

(32) 16 CFR part 1250, safety standard for toys. The CPSC only requires certain provisions of ASTM F963-16 to be subject to third party testing; and therefore, the CPSC only accepts the accreditation of third party conformity assessment bodies for testing under the following toy safety standards:

(i) [Reserved]

(ii) ASTM F963-16:

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(JJ) Section 4.40, Expanding Materials

(KK) Section 4.41, Toy Chests (except labeling and/or instructional literature requirements)

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) ASTM F963-16, “Standard Consumer Safety Specification for Toy Safety,” August 1, 2016.

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3. Add part 1250 to read as follows:

**PART 1250—SAFETY STANDARD MANDATING ASTM F963 FOR TOYS**

Sec.

1250.1 Scope.

1250.2 Requirements for toy safety.

**Authority:** Pub. L. No. 110–314, sec. 106, 122 Stat. 3016 (August 14, 2008); Pub. L. No. 112–28, 125 Stat. 273 (August 12, 2011).

**§ 1250.1 Scope.**

This part establishes a consumer product safety standard for toys that mandates provisions of ASTM F963.

**§ 1250.2 Requirements for toy safety.**

(a) Except as provided for in paragraph (b) of this section, toys must comply with the provisions of ASTM F963-16, Standard Consumer Safety Specification for Toy Safety, approved August 1, 2016. The Director of the Federal Register approves the incorporation by reference listed in this section in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 USA; phone: 610-832-9585; <http://www.astm.org/>. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

[http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) Pursuant to section 106(a) of the Consumer Product Safety Improvement Act of 2008 section 4.2 and Annex 5 or any provision of ASTM F963 that restates or

incorporates an existing mandatory standard or ban promulgated by the Commission or by statute or any provision that restates or incorporates a regulation promulgated by the Food and Drug Administration or any statute administered by the Food and Drug Administration are not part of the mandatory standard incorporated in paragraph (a) of this section.

Dated: January 27, 2017

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Todd A. Stevenson, Secretary  
U.S. Consumer Product Safety Commission

[FR Doc. 2017-02147 Filed: 2/1/2017 8:45 am; Publication Date: 2/2/2017]